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6 Attorneys for Plaintiff
7 JOHN FALKENSTEIN

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 JOHN FALKENSTEIN,)

12 Plaintiff,)

13 vs.)

14 SHIPCO TRANSPORT, INC.,)

15 Defendant.)
16 _____)

Case No. 13-cv-03605-WHO

MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO MOTION
TO CHANGE VENUE PURSUANT TO 28
U.S.C. § 1404

Date: October 23, 2013

Time: 2:00 p.m.

Courtroom: 2

Judge: Hon. William H. Orrick

17
18 COMES NOW Plaintiff JOHN FALKENSTEIN, who hereby opposes that certain Notice
19 of Motion and Motion to Change Venue Pursuant to 28 U.S.C. § 1404, as follows:

20 **I. INTRODUCTION.**

21 Plaintiff JOHN FALKENSTEIN recovered Judgment to and against SHIPCO
22 TRANSPORT SDN BHD ("Debtor") arising out of a personal injury in the action entitled *John*
23 *Falkenstein v. Shipco Transport, Inc., et al.*, Los Angeles County Superior Court. Case No.
24 NC042676. The Judgment is marked *Exhibit "A."*¹ The Debtor has retained counsel who has
25 filed a motion to vacate the default and default judgment, which the court denied, and the decision
26 thereof is marked *Exhibit "B."* The Debtor has filed an appeal with the Court of Appeal, Second

27 _____
28 ¹ All exhibits are incorporated by reference as though fully set forth in this Memorandum
in their entirety and are attached to the Declaration of David J. Cook, Esq. which is filed
contemporaneously herein.

Appellate District. During the course and scope of the enforcement action. Plaintiff served post-judgment interrogatories, in which the Debtor defaulted, and the order compelling discovery is marked *Exhibit "C."* The Debtor has made no effort by which to answer the discovery, either in part or in whole. The Debtor did not oppose the motion to compel discovery, and no appeal has been taken from the order.

II. WHERE IS STI?

First. STI is a global entity with offices throughout the entire world. A copy of a list of all of their offices is marked *Exhibit "D."* STI has an office in S. San Francisco (501 South Airport Blvd. Suite 212. So. San Francisco, CA 94080)

III. STATUS OF CURRENT PROCEEDINGS.

Plaintiff filed an action to pierce the corporate veil, seeking to impose liability upon SHIPCO TRANSPORT, INC. ("STI") in the San Francisco County Superior Court, in that action entitled *John Falkenstein, an individual, vs. Shipco Transport, Inc., a New Jersey corporation, et al.*, Case No. CGC-13-530670 ("Alter Ego Action"). Service of process was effectuated, and STI filed an Answer, but did not raise venue after an affirmative defense thereunder. Instead, STI has now filed a discretionary motion for change of venue under 28 U.S.C. § 1404(a), which Plaintiff now opposes.

IV. STANDARDS FOR DISCRETIONARY CHANGE OF VENUE.

A motion for change of venue pursuant to 28 U.S.C. § 1404 lies with the discretion of the court. *See Jones v. GMC Franchise, Inc.*, 211 F.3d 495, 498 (9th Cir. 2000). The decision whether to grant the motion turns on the facts of the particular case. In reviewing the motion to transfer, the court may consider the following factors to determine whether the transfer was appropriate: The location where the relevant agreement was negotiated and executed, the state which is most familiar with the governing law, the plaintiff's choice of forum, the parties' respective contracts with the forum, the contracts relating to the plaintiff's cause of action in the chosen forum, the differences in the cost of litigation in the two forums, the availability of compulsory process to compel attendance of unwilling non-party witnesses, and the access to the sources or proof. *See Jones v. GMC Franchise, Inc.* at page 495.

1 In order to meet the burden, the moving party must present affidavits or declarations to
 2 establish the facts supporting the transfer. The affidavits or declarations must be admissible
 3 evidence consisting of non-hearsay statements by competent witnesses. Conclusory declarations
 4 are insufficient. *See Stop-A-Flat Corporation v. Electra Start of Michigan, Inc.*, 507 F.Supp. 647,
 5 652 and N.D.Cal. Local Rule 7.5. A party seeking to transfer cannot rely upon vague
 6 generalizations as to convenient factors. The party is obligated to identify the key witnesses to be
 7 called and present a generalized statement of what their testimony would include. *See Heller*
 8 *Financial, Inc. v. Midwhey Powder*, 883 F.Supp. 1286, 1293 (7th Cir. 1989).

9 V. ANALYSIS OF PLAINTIFF'S CASE.

10 An analysis of Plaintiff's case would be illustrative in determining the type of proof which
 11 Plaintiff seeks to bring to bear, and commensurately, the relative defenses. While this case is
 12 brought by an individual to impose liability based upon a single enterprise theory, which is a
 13 subset of classic alter ego doctrine, this case revolves around the financial transactions by and
 14 among the Debtor and STI. The core allegation in the Complaint is the following:

15 "8. Shipco Malaysia and STI are corporations so closely connected that they are
 16 one and the same entity, and represent a joint enterprise in which both entities are
 17 jointly and severally liable for the debts of each other. STI represents Shipco
 18 Malaysia as one of its "agents and/or offices" on its website. Shipco Malaysia
 19 bears, uses, and advertises under the trademark issued by the United States Patent
 20 and Trademark Office ("USPTO") in which the owner of the trademark is STI. The
 21 business of Shipco Malaysia is a non-vessel operating common carrier ("NVOCC")
 22 which issues "house bills of lading" primarily to logistics companies and others in
 23 Malaysia and Southeast Asia, and provides for transportation of the goods by way
 24 of oceangoing containers to the STI Los Angeles facility located at 311 W. Artesia
 25 Blvd., Compton, CA 90220. The STI facility in Compton, CA provides for
 26 continuing shipment of the goods under the house bill of lading to their ultimate
 27 points of destination in the U.S. Therefore, STI and Shipco Malaysia act in tandem
 28 with each, and is one, continuous seamless business. Moreover, Defendants and
 each of them share the same name, logo, trademark, symbol, identity, commonality
 of purpose, and business operation. Defendants and each of them maintain a joint
 web site that identifies Shipco Malaysia as one its branches or offices and not a
 separate entity.

9. In a proceeding before the Federal Maritime Commission, Case No. P1-08, STI
 represented the following:

"Shipco Transport, Inc maintains nine (9) branch offices through the United States,
 in addition to a headquarters operation. Shipco was established in 1988 and has
 developed into one of the world's leading neutral NVOCC's, with more than 40
 offices worldwide, in excess of 800 employees and covering all major trade lanes.
 (Page 1, Paragraph I, of the "Reply Comments of Shipco, Inc., in support of the Petition of
 the National Customs Brokers and Forwarder's Association of America ("NCBFAA") For

1 Exemption from Mandatory Rate Tariff Publication," dated September 25, 2008, FMC
 2 Petition P1-08. " (Copy attached hereto marked *Exhibit "C"* and incorporated by
 reference.)

3 One of these offices would be the facility commonly known herein as Shipco Malaysia.
 4 (First Amended Complaint, paragraphs 8 & 9, pages 2 & 3, Document 11)

5 California courts have developed a long and well-understood line of cases which have
 6 analyzed single enterprise cases, and moreover, the elements of proof. In *Greenspan v. LADT,*
 7 *LLC*, 121 Cal. Rptr. 3d 118, 138-39 (Cal. App. 2d Dist. 2010), the court enumerated the elements
 8 of proof, as follows:

9 " 'The alter ego test encompasses a host of factors: "[1] [c]ommingling of funds
 10 and other assets, failure to segregate funds of the separate entities, and the
 11 unauthorized diversion of corporate funds or assets to other than corporate uses ...;
 12 [2] the treatment by an individual of the assets of the corporation as his own ...; [3]
 13 the failure to obtain authority to issue stock or to subscribe to or issue the same ...;
 14 [4] the holding out by an individual that he is personally liable for the **139 debts
 15 of the corporation ...; the failure to maintain minutes or adequate corporate records,
 16 and the confusion of the records of the separate entities ...; [5] the identical
 17 equitable ownership in the two entities; the identification of the equitable owners
 18 thereof with the domination and control of the two entities; identification of the
 19 directors and officers of the two entities in the responsible supervision and
 20 management; sole ownership of all of the stock in a corporation by one individual
 21 or the members of a family ...; [6] the use of the same office or business location;
 22 the employment of the same employees and/or attorney ...; [7] the failure to
 23 adequately capitalize a corporation; the total absence of corporate assets, and
 24 undercapitalization ...; [8] the use of a corporation as a mere shell, instrumentality
 25 or conduit for a single venture or the business of an individual or another
 26 corporation ...; [9] the concealment and misrepresentation of the identity of the
 responsible ownership, management and financial interest, or concealment of
 personal business activities ...; [10] the disregard of legal formalities and the failure
 to maintain arm's length relationships among related entities ...; [11] the use of the
 corporate entity to procure labor, services or merchandise for another person or
 entity ...; [12] the diversion of assets from a corporation by or to a stockholder or
 other person or entity, to the detriment of creditors, or the manipulation of assets
 and liabilities between entities so as to concentrate the assets in one and the
 liabilities in another ...; [13] the contracting with another with intent to avoid
 performance by use of a corporate entity as a shield against personal liability, or the
 use of a corporation as a subterfuge of illegal transactions ...; [14] and the formation
 and use of a corporation to transfer to it the existing liability of another person or
 entity." ... [] This long list of factors is not exhaustive. The enumerated factors may
 be considered "[a]mong" others "under the particular circumstances of each case." ...
 "No single factor is determinative, and instead a court must examine all the
 circumstances to determine whether to apply the doctrine...." (*Zoran Corp. v.*
Chen (2010) 185 Cal.App.4th 799, 811-812, 110 Cal.Rptr.3d 597, citations
 omitted.)

27 In *Am. Steel & Stairways, Inc. v. Lexington Ins. Co.*, C 12-3103 SI, 2012 WL 4097711 (N.D. Cal.
 28 2012), the court likewise set forth the elements of proof, as follows:

1 “When evaluating whether a single enterprise exists, California courts require: (1)
 2 there be such a unity of interest and ownership between the two entities that the
 3 separate personalities do not in reality exist; and (2) there would be an inequitable
 4 result if there is no finding of a single enterprise. *See Wady v. Provident Life & Acc.*
 5 *Ins. Co. of America*, 216 F.Supp.2d 1060, 1066 (C.D.Cal.2002) (applying
 6 California law). Factors courts consider when determining whether the first part of
 7 the single enterprise test has been satisfied include: commingling of funds and other
 8 assets of the entities, the holding out by one entity that it is liable for the debts of
 9 the others, identical equitable ownership in the entities, use of the same offices and
 10 employees, and use of one as a mere shell or conduit for the affairs of the others. *Id.*
 11 (citing *Roman Catholic Archbishop v. Superior Court*, 15 Cal.App.3d 405, 411, 93
 12 Cal.Rptr. 338 (1st Dist.1973)).

13 In *Toho-Towa Co., Ltd. v. Morgan Creek Productions, Inc.*, 159 Cal. Rptr. 3d 469, 480-81
 14 (Cal.App.2d Dist. 2013), the court stated as follows:

15 “Factors for the trial court to consider include the commingling of funds and assets
 16 of the two entities, identical equitable ownership in the two entities, use of the same
 17 offices and employees, disregard of corporate formalities, identical directors and
 18 officers, and use of one as a mere shell or conduit for the affairs of the other.
 19 [Citation.] No one characteristic governs, but the courts must look at all the
 20 circumstances to determine whether the doctrine should be applied. [Citation.]”
 21 [Citation.]” (*Troyk v. Farmers Group, Inc.* (2009) 171 Cal.App.4th 1305,
 22 1341–1342, 90 Cal.Rptr.3d 589; accord *Wehlage v. EmpRes Healthcare, Inc.*
 23 (N.D.Cal.2011) 791 F.Supp.2d 774, 782.)”

24 Therefore, the participation by the individual plaintiff would be nominal, at best. Plaintiff
 25 was injured on the job and this judgment arises from a default judgment rendered against the
 26 Debtor. These cases tend to be “books and records cases.” The question therefore is where are the
 27 “books and records,” and moreover, where are the individuals who would be the likely witnesses,
 28 and even party witnesses. As set forth below, these witnesses, documents, and access to proof are
 not located in the Central District (Compton, CA), but rather located in Hoboken, New Jersey.

21 **VI. POST-JUDGMENT DISCOVERY DEMONSTRATES THAT THE GRAVITY OF THIS CASE IS IN HOBOKEN, NEW JERSEY, AND NOT LOS ANGELES.**

22 Plaintiff has already conducted significant discovery, consisting of the post-judgment
 23 examination of Gary Osterbach and Aidee Gamino. Gary Osterbach is the Vice President of
 24 Midwest Region. His role is to oversee the operations of STI in Los Angeles, San Francisco,
 25 Seattle and Chicago. (Post-judgment order of examination dated June 28, 2013, hereinafter
 26 “Exam.” p. 18, ll. 13-18. Relevant portions from the transcript of the examination are marked
 27 *Exhibit “E.”*) Gary Osterbach is also the General Manager for the operations of STI, Los Angeles.
 28 (Exam.. p. 18, ll. 22-25.)

1 The gist of this action is to demonstrate that the Debtor and STI are one and the same
2 entity. that they consist of a "seamless entity," that they consist of a "single enterprise," and
3 accordingly, they are equally jointly and severally liable for the underlying judgment itself. This is
4 a classic alter ego action seeking to impose liability on an entity so closely related and associated
5 that it become part and parcel of the underlying entity itself.

6 STI states that the "implicated office" is located in Los Angeles County. and so are the
7 relevant witnesses, Gary Osterbach, General Manager, and Aidee Gamino. Import Manager.
8 (Memorandum in support of motion for change of venue. p. 5, ll. 8-9.)

9 STI's analysis is in error. The "implicated office" is both the Malaysia facility of STI and,
10 more important, the Hoboken corporate offices. The persons to be deposed, among others, is
11 Christian Mogelvang and Klaus Jepsen (officers of STI), who is located in Hoboken. New Jersey.
12 (Exam., pp 28, ll: 7-17; pp 29, ll. 10-25.) Accounting personnel, and specifically the person to
13 explain the relationship between these two parties from an accounting basis, is located in
14 Hoboken, New Jersey. (Exam.. p. 59, ll. 5-18.) The corporate accounting department is located in
15 Hoboken, New Jersey. (Exam.. p. 65, ll. 17-25; p. 66, ll. 1-2.) People in charge of negotiating
16 price are located in Hoboken. (Exam., page 66, ll: 18-25, ; page 67; ll: 1-14. Personal in Hoboken
17 are negotiating rates and paying bills. (Exam.. pp. 67, 15-25; pp.68, ll 1-14.)

18 Information regarding payment for the master bills of lading and other accounting matters
19 would be in the hands of individuals located in either Hoboken, New Jersey or Malaysia. (Exam.,
20 p. 70, ll. 13-25; p. 71, ll. 1.) Individuals who would be knowledgeable as to the receipt of freight
21 collect charges on house bills of lading likewise are not located in California, but presumably in
22 the corporate offices. (Exam.. p. 81, ll. 18-25; p. 82, ll. 1-25; p. 83; ll: 1-2.)

23 STI in Compton is a "conduit" on behalf of the corporate headquarter in Hoboken. (Exam.,
24 page 94, lines 15-25; page 95: ll: 1-22)

25 Local personnel are not familiar with the Shipco Transport invoices from Hoboken.
26 (Examination, p. 118, ll. 12-20.) The accounting by and between the two companies is done in
27 Hoboken. (Exam.. p. 155, ll. 7-25; p. 156, ll. 1.). The personnel in Hoboken would know whether
28 money is wired to the debtor in Malaysia. (Exam., page 157, ll 18-25). Individuals in the Los

1 Angeles office (Compton) has no knowledge of the money, or transactions, sent to the debtor in
2 Malaysia. (Exam. page 157, lines 18-25, page 158, ll: 1-20) Accounting functions are handled out
3 of Hoboken for freight collect charges due the debtor. (Exam., p. 187. ll. 2-25.) Paying for freight
4 collect charges due the debtor is NOT going to the debtor in Malaysia. The payment for freight
5 collect charges due the debtor is going to Hoboken. (Exam., page 187. ll 13-25. and Page 188: line
6 1 as follows:

7 "Question: And as far as you know, when there is a Shipco freight collect house bill
of lading, as far as you know, the money is not going to Shipco Malaysia?"

8 Answer: No.

9 Question: It's going to Shipco in Hoboken; is that correct?

10 Answer: Yes.

11 Question: Why?

12 Answer: The invoice is issued here; therefore, we need to collect and it goes in
Hoboken's account, of course."

13 (Exam. page 187, lines 16-25; page 188, line 1)

14 The individuals most knowledgeable about handling of money are located in Hoboken.
15 (Exam., p. 192. ll. 9-23.)

16 Accordingly, the center of gravity in this case is not in Los Angeles, but Hoboken. New
17 Jersey, and after that, Malaysia.

18 This issue is important in determining "the convenience of the parties." Given that the
19 gravity of this case is in New Jersey or Malaysia, but not Los Angeles. STI can never make out its
20 burden of proof that the gravity of this case is in Los Angeles, when in fact the witnesses in Los
21 Angeles indicate no knowledge concerning the relationship between these companies, and
22 moreover, that the only individuals with knowledge are located in Hoboken or Malaysia.

23 The testimony of the STI employees is uncontroverted that the business, accounting, and
24 financial transactions are all handled by individuals at the corporate headquarters in Hoboken,
25 New Jersey. Sending this case to the Central District of California would certainly not serve the
26 interest of Plaintiff because the body of proof is located in New Jersey. The core of this case is
27 discovery due from the accounting, business, management other personnel located in Hoboken,
28 New Jersey, all for the purpose of making out a case of a single enterprise. If the witnesses in Los
Angeles have literally no knowledge, and the knowledge relating to the operation of STI and the
Debtor are located in Hoboken, nothing is served by moving this case to the Central District of

1 California.

2 This would be a case of moving this matter from Northern California to Southern
3 California, which would not be more convenient for Plaintiff, and in which all of the evidence
4 would be equally inaccessible. This case would not be mor convenient for STI because none of
5 the key witnesses are located in Southern California but are located in New Jersey.

6 **VII. PARTICIPATION OF FALKENSTEIN.**

7 FALKENSTEIN is a Judgment Creditor and would not be a major participant in the trial of
8 this matter. This is an alter ego action in which the primary witnesses are the accounting,
9 management and related personnel of STI.

10 **VIII. CONVENIENCE OF WITNESSES.**

11 STI misstates "convenience of witnesses." STI's motion to transfer under § 1404(a) may
12 be denied where the witnesses are employees of the Defendant, and their presence can be obtained
13 by that party. *See Galonis v. National Broadcasting Co., Inc.*, 498 F.Supp. 789, 793 (1980).
14 Accordingly, the fact that Gary Osterbach and Aidee Gamino are located in Southern California is
15 not a factor.

16 **IX. PLAINTIFF'S CHOICE OF FORUM IS AFFORDED SUBSTANTIAL WEIGHT.**

17 This is Plaintiff's case to try. Plaintiff's choice of forum is afforded substantial weight.
18 *See Williams v. Bowman*, 157 F.Supp.2d 1103, 1106 (2001). The burden of proof therefore rests
19 with the defendant. *See The Carolina Casualty Company v. Data Broadcasting Corporation*, 158
20 F.Supp.2d 1044, 1047 (2001).

21 A motion for change of venue under § 1404 should not be granted if the effect simply is to
22 shift the inconvenience to the party resisting the motion. There is a strong presumption in favor of
23 the plaintiff's choice of forum. As such, the defendant must make a strong showing of
24 inconvenience to warrant upsetting the plaintiff's choice of forum. *See Celestial Mechanics, Inc. v.*
25 *Susquehanna Radio Corporation, et al.*, 2005 WL 4715213 (2005) and *Decker Coal Co. v.*
26 *Commonwealth Edison*, 805 F.2d 834, 843 (9th Cir. 1986). Plaintiff's choice of venue is generally
27 accorded substantial weight. *Williams v. Granite Const. Co.*, 2009 WL 250104 (2009).

28 **X. STI FAILS TO MEET ITS BURDEN OF PROOF.**

1 Defendant cannot overcome Plaintiff's choice of forum. The convenience to the parties is
 2 not served by litigating this matter in the Central District of California, when in fact the gravity of
 3 proof is located either in Hoboken or Malaysia. Nearly all the witnesses are in fact parties, and
 4 specifically, employees of STI, who are all located in Hoboken, and not in Southern California.
 5 The ease of access of evidence is straightforward because they principally consist of records. Both
 6 Northern and Central District are familiar with California law. There is no consolidation of other
 7 claims. There is no particularly local interest in the controversy. The courts are the same in terms
 8 of congestion and time of trial. This is a matter of moving this case from the Northern to the
 9 Central District, when in fact the Central District has no greater or lesser connection with this case,
 10 given that this case rises and falls upon the evidence from Hoboken, New Jersey.

11 In summary, moving the case to the Central District of California does not benefit any of
 12 the parties, their employees, or third party witnesses, who are all located in Hoboken.

13 **XI. STI HAS MADE ITS ELECTION.**

14 STI has clearly made its election, by providing at the third party order of examination
 15 individuals who stated they have little or no knowledge of the accounting and related business
 16 functions of STI. These witnesses readily admit that they have limited or no knowledge and that
 17 the accounting functions and financial transactions are undertaken at the corporate office, and not
 18 them. They repeatedly stated that the accounting functions, business functions, and accounting
 19 records are located in Hoboken or Malaysia, but certainly not Los Angeles.

20 Accordingly, given their stance, STI is now estopped from claiming that the most
 21 convenient locale for STI would be the Central District of California. Given the stance that they
 22 have little or no knowledge, and that individuals in Hoboken have knowledge, STI is estopped
 23 from claiming that the most convenient place would be Los Angeles.

24 **XII. CONCLUSORY DECLARATION.**

25 The declaration in support of the motion is by Robert Campbell, counsel for STI. He
 26 recites the basic facts of the case. He does not offer the court any specific evidence in support of
 27 this motion for change of venue, and specifically the putative convenience of the parties. He does
 28 not indicate why the litigation of this matter would be more convenient for STI located in the

1 Central District of California. He does not identify any particular non-party witnesses who would
 2 be inconvenienced, one way or another, by keeping the case here, or for that matter, the case in the
 3 Central District of California.

4 Campbell does not identify how or why STI (Hoboken) would enjoy any greater
 5 convenience by litigating this case in the Central District of California, as opposed to the Northern
 6 District of California, as STI (Hoboken) is the entity who bears the "laboring oar" of this litigation.
 7 Campbell does not identify any particular convenience, one way or another, which STI (Hoboken)
 8 would derive from this motion.

9 A motion for change of venue under 1404 is fact-driven, and STI bears the affirmative
 10 burden of proof by a preponderance of the evidence. Counsel's one-page declaration does not
 11 even meet this burden of proof.

12 **XIII. CONCLUSION.**

13 This is an alter ego action which, in many cases, rises and falls on accounting, business,
 14 and related records which show the relationship by and between the Debtor and STI. Upon
 15 significant questioning, the representatives of STI indicate to the person that they have no or little
 16 information, have no records, and that the individuals with the information are located in
 17 Hoboken, New Jersey. Therefore, STI cannot make out its burden of proof that moving this case
 18 to the Central District would be for the "convenience of the parties" as, according to STI, there are
 19 no key witnesses located in the Central District of California. STI likewise cannot claim that the
 20 Central District of California would have any greater or different knowledge of the law, court
 21 congestion, or otherwise. The fact that the underlying trial court is located in Southern California
 22 is irrelevant, given that the subject matter of this case is an alter ego action. Finally, the location
 23 of Mr. Falkenstein is of no matter, given this is an alter ego action. Therefore, STI has not made
 24 its burden of proof, and this motion should be denied.

25 DATED: September 27, 2013

COOK COLLECTION ATTORNEYS

26 By: /s/ David J. Cook
 27 DAVID J. COOK, ESQ. (SBN 060859)
 Attorneys for Plaintiff
 JOHN FALKENSTEIN

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PROOF OF SERVICE

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I declare:

I am employed in the County of San Francisco, California. I am over the age of eighteen (18) years and not a party to the within cause. My business address is 165 Fell Street. San Francisco, CA 94102. On the date set forth below, I served the attached:

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION
TO CHANGE VENUE PURSUANT TO 28 U.S.C. § 1404

DECLARATION OF DAVID J. COOK, ESQ. IN SUPPORT OF OPPOSITION TO
MOTION TO CHANGE VENUE PURSUANT TO 28 U.S.C. § 1404

on the above-named person(s) by:

XXX (BY MAIL) Placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed to the person(s) served above.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 27, 2013 at San Francisco, California.

/s/ Karene Jen
Karene Jen